

SENATE MOTION

MR. PRESIDENT:

I move that Engrossed House Bill 1811 be amended to read as follows:

- 1 Page 6, between lines 32 and 33, begin a new paragraph and insert:
- 2 "SECTION 9. IC 6-8.1-3-12 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) The department
- 4 may audit any returns filed in respect to the listed taxes, may appraise
- 5 property if the property's value relates to the administration or
- 6 enforcement of the listed taxes, may audit gasoline distributors for
- 7 financial responsibility, and may investigate any matters relating to the
- 8 listed taxes.
- 9 (b) For purposes of conducting its audit or investigative functions,
- 10 the department may:
- 11 (1) subpoena the production of evidence;
- 12 (2) subpoena witnesses; and
- 13 (3) question witnesses under oath.
- 14 The department may serve its subpoenas or it may order the sheriff of
- 15 the county in which the witness or evidence is located to serve the
- 16 subpoenas.
- 17 (c) The department may enforce its audit and investigatory powers
- 18 by petitioning for a court order in any court of competent jurisdiction
- 19 located in the county where the tax is due or in the county in which the
- 20 evidence or witness is located. If the evidence or witness is not located
- 21 in Indiana or if the department does not know the location of the
- 22 evidence or witness, the department may file the petition in a court of
- 23 competent jurisdiction in Marion County. The petition to the court must
- 24 state the evidence or testimony subpoenaed and must allege that the
- 25 subpoena was served but that the person did not comply with the terms
- 26 of that subpoena.
- 27 (d) Upon receiving a proper petition under subsection (c), the court
- 28 shall promptly issue an order which:
- 29 (1) sets a hearing on the petition on a date not more than ten (10)
- 30 days after the date of the order; and
- 31 (2) orders the person to appear at the hearing prepared to produce

1 the subpoenaed evidence and give the subpoenaed testimony.
 2 If the defendant is unable to show good cause for not producing the
 3 evidence or giving the testimony, the court shall order the defendant to
 4 comply with the subpoena.

5 (e) If the defendant fails to obey the court order, the court may
 6 punish ~~him~~ **the defendant** for contempt.

7 (f) Officers serving subpoenas or court orders and witnesses
 8 appearing in court are entitled to the normal compensation provided by
 9 law in civil cases. The department shall pay the compensation costs
 10 from the money appropriated for the administration of the listed taxes.

11 **(g) County treasurers investigating tax matters under IC 6-9**
 12 **have:**

13 **(1) concurrent jurisdiction with the department;**

14 **(2) the audit, investigatory, appraisal, and enforcement**
 15 **powers described in this section; and**

16 **(3) authority to recover court costs, fees, and other expenses**
 17 **related to an audit, investigatory, appraisal, or enforcement**
 18 **action under this section."**

19 Renumber all SECTIONS consecutively.

(Reference is to EHB 1811 as printed April 8, 2003.)

Senator BORST